

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Filed 3-1-12
Clerk, U. S. District Court
Western District of Texas
By [Signature]
Deputy

ELLEN L. FLEMING,

Plaintiff,

-vs-

Case No. 1-10-CA-973-SS

DELL INC.,

Defendant.

VERDICT FORM

We, the jury, unanimously answer the following questions:

Part I—Discrimination and Retaliation

Question One

Did Fleming at any time complain to, or otherwise give notice to, any person of authority at Dell of a belief that she had been subjected to gender discrimination?

A. Answer "Yes" or "No": No

If you answer "Yes," specify to who, and when, such complaint or notice was given:

B. Who: _____

C. When: _____

If you answer "No" to Question One, skip to Question Five.

If you answer "Yes" to Question One, then proceed to Question Two.

Question Two

Was Fleming's complaint about discrimination, if any, a motivating factor in Dell's decision to take adverse employment action towards Fleming?

Answer "Yes" or "No." _____

If you answer "No" to Question Two, skip to Question Five.

If you answer "Yes" to Question Two, then proceed to Question Three.

Question Three

Has Dell proven that it would have made the same decision to take adverse employment action against Fleming even if it had not considered Fleming's alleged engagement in protected activity?

Answer "Yes" or "No." _____

If you answer "No" to Question Three, then proceed to Question Four.

If you answer "Yes" to Question Three, skip to Question Five.

Question Four

On what date, if any, did Dell take adverse employment action, motivated at least in part by her protected activity, towards Fleming?

Answer with a month, day, and year. _____

Proceed to Question Five.

Question Five

Was Fleming's gender a motivating factor in Dell's decision to terminate her?

Answer "Yes" or "No." No

If you answer "No" to Question Five: skip to Question Eight *only* if you answered "Yes" to Question

Two *and* "No" to Question Three; otherwise, skip to Question Ten.

If you answer "Yes" to Question Five, then proceed to Question Six.

Question Six

"Has Dell proven that it would have made the same decision to terminate Fleming even if it had not considered Fleming's gender?"

Answer "Yes" or "No." _____

If you answer "No" to Question Six, then proceed to Question Seven.

If you answer “Yes” to Question Six: skip to Question Eight *only* if you answered “Yes” to Question Two *and* “No” to Question Three; otherwise, skip to Question Ten.

Question Seven

On what date did Dell discriminate against Fleming because of her gender?

Answer with a month, day, and year. _____

Proceed to Question Eight.

Part II—Discrimination and Retaliation Damages

Question Eight

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Fleming for any damages resulting from Dell’s discrimination and/or retaliation?

Answer in dollars and cents for the following items and none other, if any:

A. Retaliation Damages

1. Back pay and benefits: \$ _____
2. Emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses: \$ _____

B. Discrimination Damages

1. Back pay and benefits: \$ _____
2. Emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses: \$ _____

Proceed to Question Nine.

Question Nine

What sum of money, if any, do you find should be awarded as punitive damages for Dell’s discrimination and/or retaliation?

Answer in dollars and cents, if any:

A. Retaliation \$ _____

B. Discrimination \$ _____

Proceed to Question Ten.

Part III—Incentive Bonus Agreement

Question Ten

Do you find that Dell failed to comply with the terms of the incentive bonus agreement?

Answer "Yes" or "No." Yes

If you answer "No" to Question Ten, skip to Question Twelve.

If you answer "Yes" to Question Ten, then proceed to Question Eleven.

Question Eleven

What is the amount of the incentive bonus payment Fleming would have received under the bonus agreement, if Dell was required to pay Fleming a bonus under the terms of the bonus agreement?

Answer in dollars and cents, if any:

Answer: \$ \$50,414

Proceed to Question Twelve.

Part IV—Justification

Question Twelve

Do you find that Fleming was justified in preserving copies of confidential and/or proprietary information on a private computer?

Answer "Yes" or "No." No

If you answer "No" to Question Twelve, proceed to Question Thirteen.

If you answer "Yes" to Question Twelve, STOP, and answer no further questions.

Part V—Employment Agreement

Question Thirteen

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Dell for its damages, if any, that resulted from Fleming's failure to comply with the terms of her employment agreement?

Answer in dollars and cents, if any:

Answer: \$ 0

Proceed to Question Fourteen.

Part VI—Stock Unit Agreements

Question Fourteen

What amount does Fleming owe to Dell under the terms of the Performance Based Stock Unit Agreements?

Answer in dollars and cents, if any:

Answer: \$ 12,936

Answer no further questions.

Submitted the 1st day of March, 2012, at 6 o'clock 35 m.

ORIGINAL SIGNATURE
REDACTED PURSUANT TO
E-GOVERNMENT ACT OF 2002